IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 27317 of 1998

Between:

V.Sanjeeva Reddy, S/o. Ram Reddy,
Conductor, R/o. Gundlapalli (Village), Karimnagar,
Karimnagar District.

.....PETITIONER

AND

1 The Andhra Pradesh State Road Transport Corpn.,
rep by Managing Director. Musheerabad, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C. Bus Depot,
Karimnagar-I, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction, call for records, declare the action of the respondents in not giving the benefit of yearly increments and other admissible allowances to the petitioner as arbitrary, unjustified and unconstitutional with a consequential direction to the respondents to effect the annual increments and fix the petitioner's basic pay accordingly.

Counsel for the Petitioner: MR. H.SRINIVASA RAO

Counsel for the Respondents: SMT.P.RAJANI REDDY

The Court made the following:

ORDER:

Heard Sri H.Srinivasarao, learned Counsel appearing for the petitioner and Smt. P.Rajani Reddy, learned Standing Counsel appearing on behalf of the respondents-Corporation.

The petitioner who has been working as a Conductor with the respondents-Corporation files this Writ Petition *inter alia* challenging the action of the respondents in not giving the benefit of yearly increments and other admissible allowances, as illegal.

The facts in retrospect are that initially he was appointed as a Conductor in the year 1976 and having regard to certain allegations made and charges framed, he was removed from service on 04.01.1992. Thereafter he sought reference of the dispute to the Labour Court and the same was taken up as I.D.No.42 of 1992, which was ultimately rejected as per the order dated 17.11.1994. Challenging the same the petitioner has filed earlier a Writ Petition No. 20078 of 1995 and ultimately the same was allowed by this Court as per order dated 10.02.1997 setting aside the said award and ordering reinstatement of the petitioner without back wages. Though, it is stated by the petitioner, that he was reinstated and working as such, the increments have not been paid and the respondents sought to deny the same on the ground of denial of back wages by this Court, which is wholly illegal. Hence, the Writ Petition.

In the Counter-affidavit filed on behalf of the respondents, it is stated that having regard to the direction by this Court for reinstatement without back

wages, the question of payment of notional increment does not arise as he was reinstatement only without back wages and further there is no specific direction from this Court for paying the increments and therefore the petitioner is not entitled to any such amounts.

Sri H.Srinivasarao, learned Counsel appearing for the petitioner submits denial of the increments, which is not there as a sort of punishment at the relevant point of time in the proceedings initiated against him earlier, would amount to double punishment and further mere denial of back wages does not deny the increments to which the petitioner is entitled to.

Learned Standing Counsel appearing on behalf of the respondents sought to repel the contention on the ground that since the back wages are denied, necessarily it follows that even the increments which normally he is entitled, also stand denied.

Considering the submissions made and also perusal of the material, the only question which arises for consideration is as to whether on the facts and circumstances the petitioner is entitled to the increments.

There is no dispute of the fact that the petitioner is under employment with the respondents-corporation as Conductor and he had been removed from service, which was referred as dispute to the Labour Court and the said reference was negatived and thereupon the petitioner approached this Court in Writ Petition No. 20078 of 1995 which was allowed directing reinstatement without back wages. There is also no dispute to the fact that consequent upon the direction, the petitioner had been reinstated and he has been paid regularly. However, for the interregnum period the yearly increments were sought to be denied. The main reason as shown on behalf of the respondents for denying the increments is that there is a denial of back wages which include increments also. It is to be seen that wherever there is a denial of back wages, necessarily it amounts to denial of the amounts to which one would be entitled normally as

per the scales including all the increments etc. That does not mean that all such benefits which one would be entitled to, are denied while calculating amounts ultimately once he gets entitlement for receiving the amounts. Necessarily the calculation at the time of payment has to be made on the basis of the increments which he would have got in the normal circumstances, though as an act of punishment, he might not have been paid the same during the said period. In the circumstances, it is to be held that merely because there is no direction specifically for paying or including the increments while arriving at the benefits which he is entitled to, at a later stage, it does not mean that the same has to be excluded, and the same would not allow the respondents-corporation to deny inclusion of increments while calculating the salary at a time when the petitioner gets entitlement after reinstatement. Therefore, I do not find any justification either in law or on facts in the reason shown while denying the increments to the petitioner.

The writ petition is allowed and the respondents are directed to pay the increments to which the petitioner is entitled to in the normal circumstances. No costs.

(B.Prakash Rao, J.)

04.04.2005

MRKR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on Monday the

fourth day of April two thousand and five.

...Registrar

Copy to

1 The Managing Director, Andhra Pradesh State Road Transport Corpn., Musheerabad, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C. Bus Depot, Karimnagar-I, Karimnagar.

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